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of Three Arrows Capital, Ltd.*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:
Three Arrows Capital, Ltd.,
Debtor in a Foreign Proceeding

Chapter 15

Case No. 22-10920 (MG)

**MOTION FOR AUTHORIZATION TO FILE UNDER SEAL (I) THE DECLARATION
OF ALEX M. ENGLANDER IN SUPPORT OF THE FOREIGN REPRESENTATIVES’
MOTION FOR AN ORDER COMPELLING COMPLIANCE WITH SUBPOENA; AND
(II) THE DECLARATION OF RUSSELL CRUMPLER IN SUPPORT OF THE
FOREIGN REPRESENTATIVES’ MOTION FOR AN ORDER COMPELLING
COMPLIANCE WITH SUBPOENA**

Russell Crumpler and Christopher Farmer, in their joint capacities as the duly authorized foreign representatives (the “Foreign Representatives”) of Three Arrows Capital, Ltd. (“Three Arrows” or the “Debtor”), which is the subject of an insolvency proceeding (the “BVI Proceeding”) currently pending in the British Virgin Islands (“BVI”) before the Eastern Caribbean Supreme Court in the High Court of Justice Virgin Islands (Commercial Division) (the “BVI”

Court”) and captioned as *In re Three Arrows Capital Limited*, Case No. BVIHCOM2022/0119 (June 27, 2022), by and through the undersigned counsel, respectfully represent as follows in support of this motion (the “Motion”):

RELIEF REQUESTED

1. By this Motion, the Foreign Representatives request entry of an order, substantially in the form attached hereto as Exhibit A (the “Proposed Order”):

- (a) authorizing the filing of the *Declaration of Alex M. Englander in Support of the Foreign Representatives’ Motion for an Order Compelling Compliance with Subpoena* (“Englander Declaration”) and the *Declaration of Russell Crumpler in Support of the Foreign Representatives’ Motion for an Order Compelling Compliance with Subpoena* (“Crumpler Declaration”) publicly with the physical, email, and blockchain addresses (the “Founder Addresses”) of Su Zhu, Kyle Livingstone Davies (together, the “Founders”) and certain other individual affiliates (together with the Founders, the “Founder Parties”), redacted while filing the Englander Declaration and Crumpler Declaration under seal with such addresses unredacted; and
- (b) granting related relief.

JURISDICTION AND VENUE

2. The Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this District pursuant to 28 U.S.C. § 1410. The statutory bases for relief are sections 105(a), 107(b) and 107(c) of Title 11 of the United States Code, 11 U.S.C. §§101–1532 (the “Bankruptcy Code”), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rules

9013-1(a) and 9018-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of New York (the “Local Bankruptcy Rules”).

BACKGROUND

3. The Foreign Representatives commenced this chapter 15 case on July 1, 2022, by filing the *Chapter 15 Petition for Recognition of a Foreign Proceeding* [Dkt. 1] (the “Petition”) and the *Verified Petition Under Chapter 15 for Recognition of a Foreign Proceeding Main Proceeding and Related Relief* [Dkt. 2] (the “Verified Petition”), seeking recognition of the BVI Proceeding as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code, and related relief.

4. The facts related to this matter are set forth in detail in the Verified Petition, the *Declaration of Russell Crumpler in Support of Petition for Recognition and Chapter 15 Relief* [Dkt. 3], and the *Declaration of Grant Carroll in Support of Petition for Recognition and Chapter 15 Relief* [Dkt. 4].

BASIS FOR RELIEF

5. The Founder Addresses should be redacted pursuant to section 107(c) of the Bankruptcy Code. Section 107(c) is a codified exception to the general rule of public access and protects individuals from potential harm caused by the disclosure of confidential information. Specifically, section 107(c) provides, in relevant part, that:

The bankruptcy court, for cause, may protect an individual, with respect to the following types of information to the extent the court finds that disclosure of such information would create undue risk of identity theft or other unlawful injury to the individual or the individual’s property:

(A) Any means of identification . . . contained in a paper filed, or to be filed in a case under [the Bankruptcy Code].

(B) Other information contained in a paper described in subparagraph (A).

11 U.S.C. § 107(c)(1).

6. Further, “[s]ection 107(c) gives the court broad discretion to protect an individual with respect to any information, including identifying information, in a paper filed or to be filed with the court to the extent that the court finds that disclosure of the information would create an undue risk of identity theft or unlawful injury to the individual or the individual’s property.” 2 COLLIER ON BANKRUPTCY ¶ 107.04 (16th ed.). Thus, the “types of information that can be protected by the court are unlimited.” *Id.*

7. The Englander Declaration and Crumpler Declaration contain personally identifiable information of the Founder Parties in the form of personal physical, email, and blockchain addresses. Disclosure of the Founder Addresses could be detrimental to the Founder Parties. Additionally, these liquidation proceedings are the subject of public scrutiny, which adds to the sensitivity around disclosing personally identifiable information.

8. This Court has supported the sealing of individual addresses on the grounds that the exposure of such personally identifiable information can be used to perpetrate identity theft, blackmail, harassment, doxing, and stalking. *See, e.g., In re Celsius Network LLC*, 644 B.R. 276, 283 (Bankr. S.D.N.Y. 2022). This Court has also found that the disclosure of email addresses, in combination with names, could also render individuals’ cryptocurrency assets more susceptible to theft. *Id.* at 294. Consistent with section 107(c) of the Bankruptcy Code, the Foreign Representatives submit that it is appropriate to redact the Founder Addresses from the Englander Declaration and Crumpler Declaration.

9. Courts have also held that the resulting sealing order should be broad (*i.e.*, “any order which justice requires”). *See, e.g., In re Glob. Crossing Ltd.*, 295 B.R. 720, 724 (Bankr. S.D.N.Y. 2003) (citing Fed. R. Bankr. P. 9018). The court’s “authority goes not just to the protection of confidential documents, but to other confidentiality restrictions that are warranted in

the interests of justice.” *Id.* at 724. Moreover, section 105(a) of the Bankruptcy Code codifies the bankruptcy court’s inherent equitable powers and empowers it to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a).

10. Accordingly, the Foreign Representatives respectfully submit that cause exists to allow them to redact the Founder Addresses contained in the Englander Declaration and Crumpler Declaration for public filing. However, to maximize transparency, the Foreign Representatives propose to file copies of the Englander Declaration and the Crumpler Declaration with unredacted physical, email, and blockchain addresses with the Court under seal, and to share copies with the United States Trustee on a strictly confidential basis.

11. The Foreign Representatives’ Proposed Order is narrowly tailored to restrict access only to confidential information and the proposed redactions are limited to portions of the documents that include sensitive and confidential personal proprietary information.

12. Notice of this Motion will be provided to the United States Trustee for the Southern District of New York. The Foreign Representatives submit that no other or further notice of this Motion is necessary or required.

13. The Foreign Representatives have made prior requests for relief similar to that being sought in this Motion in its (a) *Motion for Authorization to File Unredacted Petition Under Seal* [Dkt. 6], filed July 1, 2022; (b) *Motion for Authorization to File Unredacted Certificates of Service Under Seal* [Dkt. 29], filed July 11, 2022; and (c) *Motion for Authorization to File Under Seal (I) Foreign Representatives’ Motion for Entry of an Order (A) Authorizing Issuance of Subpoenas and (B) Granting Related Relief, (II) Foreign Representatives’ Motion for Entry of an*

Order Authorizing Alternative Service of Process, and (III) Declaration of Russell Crumpler
[Dkt. 57], filed October 14, 2022.

14. **WHEREFORE**, the Foreign Representatives respectfully request entry of an order, substantially in the form attached hereto as Exhibit A, granting the relief requested herein and such other and further relief as is just and proper.

Dated: February 7, 2023
New York, New York

Respectfully submitted,

/s/ Adam J. Goldberg

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EXHIBIT A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:
Three Arrows Capital, Ltd.,
Debtor in a Foreign Proceeding

Chapter 15

Case No. 22-10920 (MG)

**[PROPOSED] ORDER GRANTING FOREIGN REPRESENTATIVES' MOTION FOR
AUTHORIZATION TO FILE UNDER SEAL (I) THE DECLARATION OF ALEX M.
ENGLANDER IN SUPPORT OF THE FOREIGN REPRESENTATIVES' MOTION FOR
AN ORDER COMPELLING COMPLIANCE WITH SUBPOENA; AND (II) THE
DECLARATION OF RUSSELL CRUMPLER IN SUPPORT OF THE FOREIGN
REPRESENTATIVES' MOTION FOR AN ORDER COMPELLING COMPLIANCE
WITH SUBPOENA**

Upon the Motion (the Motion)¹ of the Foreign Representatives for entry of an order (this “Order”) pursuant to sections 105(a), 107(b), and 107(c) of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Bankruptcy Rules 9013-1(a) and 9018-1(a) authorizing the Foreign Representatives to file under seal (i) the *Declaration of Alex M. Englander in Support of the Foreign Representatives’ Motion for an Order Compelling Compliance with Subpoena* (the “Englander Declaration”), and (ii) the *Declaration of Russell Crumpler in Support of the Foreign Representatives’ Motion for an Order Compelling Compliance with Subpoena* (the “Crumpler Declaration”) and (b) directing that such information remain confidential, under seal, and not be made available to anyone without the prior written consent of the Foreign Representatives, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

notice of the Motion having been provided; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and all objections, if any, to the Motion having been withdrawn, resolved, or overruled; and it appearing that the relief requested in the Motion is in the best interests of the Debtor and its estate and creditors; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:

1. The Motion is granted as set forth herein.
2. The Foreign Representatives are authorized to file the Englander Declaration and the Crumpler Declaration on the public docket of the case redacting the physical, email, and blockchain addresses of Su Zhu, Kyle Livingstone Davies, and certain other individual affiliates (collectively, the “Founder Addresses”).
3. The unredacted Englander Declaration and Crumpler Declaration containing the Founder Addresses are confidential and shall remain under seal, and shall not be made available to anyone other than this Court, the Clerk of the Court, and the United States Trustee. The United States Trustee shall keep the unredacted Englander Declaration and Crumpler Declaration on a strictly confidential basis. Any party who receives the unredacted Englander Declaration and Crumpler Declaration in accordance with this Order shall not disclose or otherwise disseminate such information to any other person or entity without the prior consent of the Foreign Representatives.

4. Upon closure of the chapter 15 case, the Clerk's Office is directed to release any hard copies or electronic storage device of the unredacted Englander Declaration and Crumpler Declaration to the Foreign Representatives for disposal.
5. The Foreign Representatives are authorized to take all actions necessary or appropriate to carry out the relief granted in this Order.
6. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated:

_____, 2023

MARTIN GLENN
Chief United States Bankruptcy Judge